

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE GUARDIAN NEWS, INC.,

Plaintiff,

-against-

VILLAGE/TOWN OF MOUNT KISCO, New York,
and AUSTIN F. CASSIDY, individually

Defendants.
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ANSWER

Docket No.
07 Civ. 4141 (CLB)

Defendants, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE
VERVENIOTIS, LLP, as and for their answer to the complaint in the above-captioned matter, sets
forth as follows:

1. Deny the allegations contained in ¶ “1” of the complaint, and refer all questions of
law to the Court for adjudication.
2. Deny the allegations contained in ¶ “2” of the complaint, and refer all questions of
law to the Court for adjudication.
3. Deny knowledge or information sufficient to form a belief as to the truth of the
allegations contained in ¶ “3” of the complaint.
4. Deny the allegations contained in ¶ “4” of the complaint, and refer all questions of
law to the Court for adjudication.
5. Admit the allegations contained in ¶ “5” of the complaint
6. Deny the allegations contained in ¶ “6” of the complaint, and refer all questions of
law to the Court for adjudication.

7. Deny the allegations contained in ¶ “7” of the complaint, and refer all questions of law to the Court for adjudication.

FIRST CLAIM

8. As and for a response to the allegations contained in ¶ “8” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “7” of the complaint, as though they were fully set forth herein.

9. Deny the allegations contained in ¶ “9” of the complaint, and refer all questions of law to the Court for adjudication.

SECOND CLAIM

10. As and for a response to the allegations contained in ¶ “10” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “9” of the complaint, as though they were fully set forth herein.

11. Deny the allegations contained in ¶ “11” of the complaint.

THIRD CLAIM

12. As and for a response to the allegations contained in ¶ “12” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “11” of the complaint, as though they were fully set forth herein.

13. Deny the allegations contained in ¶ “13” of the complaint, and refer all questions of law to the Court for adjudication.

FOURTH CLAIM

14. As and for a response to the allegations contained in ¶ “14” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “13” of the complaint, as though they were fully set forth herein.

15. Deny the allegations contained in ¶ “15” of the complaint, and refer all questions of law to the Court for adjudication.

FIFTH CLAIM

16. As and for a response to the allegations contained in ¶ “16” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “15” of the complaint, as though they were fully set forth herein.

17. Deny the allegations contained in ¶ “17” of the complaint, and refer all questions of law to the Court for adjudication.

SIXTH CLAIM

18. As and for a response to the allegations contained in ¶ “18” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶ “1” through “17” of the complaint, as though they were fully set forth herein.

19. Deny the allegations contained in ¶ “19” of the complaint, and refer all questions of law to the Court for adjudication.

SEVENTH CLAIM

20. As and for a response to the allegations contained in ¶ “20” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “19” of the complaint, as though they were fully set forth herein.

21. Deny the allegations contained in ¶ “21” of the complaint, and refer all questions of law to the Court for adjudication.

EIGHTH CLAIM

22. As and for a response to the allegations contained in ¶ “22” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “21” of the complaint, as though they were fully set forth herein.

23. Deny the allegations contained in ¶ “23” of the complaint, and refer all questions of law to the Court for adjudication.

NINTH CLAIM

24. As and for a response to the allegations contained in ¶ “24” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “23” of the complaint, as though they were fully set forth herein.

25. Deny the allegations contained in ¶ “25” of the complaint, and refer all questions of law to the Court for adjudication.

TENTH CLAIM

26. As and for a response to the allegations contained in ¶ “26” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “25” of the complaint, as though they were fully set forth herein.

27. Deny the allegations contained in ¶ “27” of the complaint, and refer all questions of law to the Court for adjudication.

ELEVENTH CLAIM

28. As and for a response to the allegations contained in ¶ “28” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “27” of the complaint, as though they were fully set forth herein.

29. Deny the allegations contained in ¶ “29” of the complaint, and refer all questions of law to the Court for adjudication.

TWELFTH CLAIM

30. As and for a response to the allegations contained in ¶ “30” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “29” of the complaint, as though they were fully set forth herein.

31. Deny the allegations contained in ¶ “31” of the complaint, and refer all questions of law to the Court for adjudication.

THIRTEENTH CLAIM

32. As and for a response to the allegations contained in ¶ “32” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “31” of the complaint, as though they were fully set forth herein.

33. Deny the allegations contained in ¶ “33” of the complaint, and refer all questions of law to the Court for adjudication.

FOURTEENTH CLAIM

34. As and for a response to the allegations contained in ¶ “34” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “33” of the complaint, as though they were fully set forth herein.

35. Deny the allegations contained in ¶ “35” of the complaint, and refer all questions of law to the Court for adjudication.

FIRST AFFIRMATIVE DEFENSE

36. Plaintiff’s complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

37. Plaintiff’s complaint is barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

38. The individual defendant is protected by qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

39. Plaintiff’s constitutional rights were not deprived pursuant to a policy, practice, custom, or procedure of the municipal defendant.

FIFTH AFFIRMATIVE DEFENSE

40. Plaintiff lacks standing.

SIXTH AFFIRMATIVE DEFENSE

41. This case, in whole or in part, is not ripe.

SEVENTH AFFIRMATIVE DEFENSE

42. This case, in whole or in part, does not present a case or controversy.

EIGHTH AFFIRMATIVE DEFENSE

43. The challenged legislation represents a reasonable time, place, and manner regulation.

NINTH AFFIRMATIVE DEFENSE

44. The challenged legislation comports with applicable Supreme Court precedent on obscenity.

TENTH AFFIRMATIVE DEFENSE

45. Plaintiff cannot identify any similarly situated persons or entities who are treated more favorably under the challenged legislation.

ELEVENTH AFFIRMATIVE DEFENSE

46. The fees charged under the subject legislation are related to the costs of administering the law.

TWELFTH AFFIRMATIVE DEFENSE

47. Plaintiff may not recover punitive damages against a municipality.

Dated: Mineola, New York
July 2, 2007

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